

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

UNION ELECTRIC COMPANY)
d/b/a AMERENUE,)

Plaintiff,)

vs.)

Case No. 4:05CV1828 CDP

HENKELS & McCOY, INC and)
LIBERTY MUTUAL INSURANCE)
COMPANY,)

Defendants.)

MEMORANDUM AND ORDER

Before me is plaintiff Union Electric Company's (AmerenUE) motion for sanctions for the defendants' failure to make several witnesses available for depositions. Defendants have not responded to the motion and their time for doing so has expired.

According to AmerenUE, on April 13, 2006, it served upon defendants Notices of Deposition for a Corporate Designee of each of the two defendants. The depositions were scheduled for May 24, 2006. On May 22, 2006, counsel for the defendants informed plaintiff's counsel that both witnesses were either unavailable and/or unreachable.

Plaintiff's counsel agreed to postpone the depositions until June 5, 2006. On

May 23, 2006, plaintiff served upon defendants Notices of Deposition for a Corporate Designee of each to be conducted on June 5, 2006 at 10:00 a.m. On June 5, 2006, plaintiff's counsel appeared at the offices of counsel for defendants. Ten minutes after the depositions were scheduled to begin, plaintiff's counsel was informed that the two witnesses again were not available to be deposed. On June 6, 2006, AmerenUE filed this motion requesting sanctions against the defendants as well as an extension of the Case Management Order's June 16, 2006 discovery deadline in order to complete the two depositions.

The defendants have failed to respond to this motion, and their time for time for doing so has expired. Based on the record before me, there is no explanation or justification for the defendants' evasive behavior. I will therefore grant AmerenUE's request for an extension of time to complete discovery as well as its request for an order requiring the two witnesses at issue to appear for depositions at their counsel's office on June 23, 29 or 30, 2006.

Accordingly,

IT IS HEREBY ORDERED that plaintiff Union Electric Company's motion for sanctions [# 11] is granted, in part. The parties shall complete all discovery in this case no later than **June 30, 2006**. Further, the defendants shall make the witnesses designated in plaintiff's May 23, 2006 Notices of Deposition available for

depositions at their counsel's office on June 23, 29, or 30, 2006. **Defendants are specifically warned that failure to comply with this order may result in judgment against them.**

IT IS FURTHER ORDERED that defendants shall reimburse plaintiff for the reasonable expenses, including attorney's fees, it incurred in attending the June 5, 2006 depositions, as well as the costs and fees associated with this motion.

A handwritten signature in cursive script, reading "Catherine D. Perry", is written over a horizontal line.

CATHERINE D. PERRY
UNITED STATES DISTRICT JUDGE

Dated this 20th day of June, 2006.